

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

BENCIVENGA CORPORATION D/B/A
OFM CORPORATION

Plaintiff,

v.

BUREAU OF ALCOHOL, TOBACCO,
FIREARMS AND EXPLOSIVES, *et al.*,

Defendants.

No. 4:23-CV-3887

JOINT NOTICE AND MOTION

Plaintiff, Bencivenga Corporation d/b/a OFM Corporation, and Defendants, Bureau of Alcohol Tobacco, Firearms, and Explosives (“ATF”), et al., file this joint notice and motion to advise the Court of recent developments and propose a schedule for future proceedings.

On February 14, 2024, Plaintiff requested a stay of the revocation order until the anticipated hearing on Plaintiff’s motion for temporary restraining order, ECF No. 33. On February 15, 2024, Defendants proposed, and Plaintiff accepted, the following partial stay of the revocation order and proposed future proceedings:

1. ATF agrees to partially stay the revocation order with respect to dispositions and repair only.
This means that Plaintiff may sell existing inventory and continue to repair firearms but may not manufacture or acquire firearms for sale. Should Plaintiff manufacture or acquire firearms for sale, the partial stay immediately terminates.
2. Plaintiff withdraws its motion for temporary restraining order, ECF No. 33.
3. The parties agree that expedited briefing on a motion for preliminary injunction is the most efficient way to proceed.

4. ATF's partial stay extends until the Court resolves Plaintiff's motion for preliminary injunction.

The parties now jointly move the Court to establish the following briefing schedule:

Plaintiff shall file a motion for preliminary injunction by February 26, 2024; Defendant shall file an opposition to Plaintiff's motion for preliminary injunction by March 11, 2024; Plaintiff shall file any reply by March 18, 2024.

The parties further request that Defendants' answer deadline, currently February 20, 2024, and the initial scheduling conference, currently March 8, 2024, be vacated. The parties propose that they file a joint status report about next steps in this case within 14 days of the Court's decision on Plaintiff's motion for preliminary injunction.

A proposed order is attached.

Dated: February 16, 2024

Respectfully submitted,

/s/G. P. Matherne (by permission)

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Attorneys for Defendants

CERTIFICATE OF SERVICE

On February 16, 2024, I electronically submitted the foregoing document with the Clerk of Court for the U.S. District Court, Southern District of Texas, using the Court's electronic case filing system. I hereby certify that I have served all parties electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Brian Rosen-Shaud

Trial Attorney
U.S. Department of Justice